



Reprinted
February 27, 2008

ENGROSSED SENATE BILL No. 192

DIGEST OF SB 192 (Updated February 26, 2008 8:11 pm - DI 14)

Citations Affected: IC 24-5.

Synopsis: Truth in music advertising. Prohibits a person, other than a media source, from advertising or conducting a live musical performance or production by falsely, deceptively, or misleadingly implying that there is an affiliation between a performing group and a recording group. Makes a violation of the provision a Class A infraction.

Effective: July 1, 2008.

Deig, Becker
(HOUSE SPONSORS — HOY, BORDERS)

January 8, 2008, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.
January 24, 2008, reported favorably — Do Pass.
January 28, 2008, read second time, ordered engrossed.
January 29, 2008, engrossed. Read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Interstate and International Cooperation.
February 11, 2008, reassigned to Committee on Public Policy.
February 21, 2008, reported — Do Pass.
February 26, 2008, read second time, amended, ordered engrossed.

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ES 192—LS 6723/DI 117+



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Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 192

A BILL FOR AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-5-25 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2008]:
4 **Chapter 25. Truth in Music Advertising**
5 **Sec. 1. As used in this chapter, "performing group" means a**
6 **vocal or an instrumental group seeking to use the name of another**
7 **group that has previously released a commercial sound recording**
8 **under the name of the other group.**
9 **Sec. 2. As used in this chapter, "recording group" means a vocal**
10 **or an instrumental group, at least one (1) of whose members has**
11 **released a commercial sound recording under the group's name,**
12 **and in which the member or members:**
13 **(1) have a legal right by virtue of use or operation under the**
14 **group's name;**
15 **(2) have not abandoned the name; and**
16 **(3) have not abandoned affiliation with the group.**
17 **Sec. 3. As used in this chapter, "sound recording" means a work**

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that results from the placement on a material object of a series of musical, spoken, or other sounds regardless of the nature of the material object, such as a compact disc, cassette, tape, or phonograph record, in which the sounds are placed.

Sec. 4. (a) Except as provided in subsection (b), a person, other than a media source that carries advertising or a press release for the performance or production, may not advertise or conduct a live musical performance or production in Indiana through actions that falsely, deceptively, or misleadingly imply the existence of an affiliation, a connection, or an association between a performing group and a recording group.

(b) This section does not apply if:

(1) the performing group is the authorized registrant and owner of a federal service mark for the recording group with the same name registered in the United States Patent and Trademark Office;

(2) at least one (1) member of the performing group was a member of the recording group and:

(A) has a legal right by virtue of use or operation under the group name;

(B) has not abandoned the name; and

(C) has not abandoned affiliation with the group;

(3) the live musical performance or production is identified in all advertising and promotion as a salute or tribute;

(4) the advertising does not relate to a live musical performance or production taking place in Indiana; or

(5) the performance or production is expressly authorized by the recording group.

Sec. 5. The attorney general or any aggrieved person may bring an action to enjoin a person from violating section 4 of this chapter. If an injunction is issued, the court may order the defendant to restore to any person in interest any money or property that was acquired by means of a violation of this chapter.

Sec. 6. A person who violates section 4 of this chapter commits a Class A infraction. Each performance or production in violation of section 4 of this chapter constitutes a separate violation.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 192, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 192 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Policy, to which was referred Senate Bill 192, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

VAN HAAFTEN, Chair

Committee Vote: yeas 8, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 192 be amended to read as follows:

Page 2, line 5, delete "person" and insert "**person, other than a media source that carries advertising or a press release for the performance or production,**".

(Reference is to ESB 192 as printed February 22, 2008.)

BORDERS

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